

**STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION**

<b>Illinois Commerce Commission</b>	)	
<b>On its Own Motion</b>	)	
<b>Investigation Concerning Illinois Bell</b>	)	<b>ICC Docket No. 01-0662</b>
<b>Telephone Company's Compliance</b>	)	
<b>with Section 271 of the</b>	)	
<b>Telecommunications Act of 1996</b>	)	

**DIRECT TESTIMONY OF**

**JAMES F. HENSON**

**ON BEHALF OF**

**AT&T COMMUNICATIONS OF ILLINOIS, INC., TCG CHICAGO,  
TCG ILLINOIS AND TCG ST. LOUIS**

**AT&T EX. 3.0**

**MARCH 20, 2002**

1 **INTRODUCTION**

2 **Q. PLEASE STATE YOUR NAME AND ADDRESS.**

3 A. My name is James F. Henson. My business address is 222 West Adams, Suite  
4 1500, Chicago, Illinois 60606. I am employed by AT&T Corp. as District  
5 Manager - State Government Affairs. In that capacity, my current responsibilities  
6 include policy implementation and support for AT&T Corp.'s regulatory  
7 initiatives related to its intrastate telecommunications services.

8

9 **Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND**  
10 **WORK EXPERIENCE.**

11 A. I graduated from Pennsylvania State University with a Bachelor of Science  
12 Degree in Electrical Engineering. I also received a Master's Degree in Business  
13 Administration from Pennsylvania State University. I am a registered  
14 Professional Engineer in the State of Michigan. Since graduating from college, I  
15 have been employed by AT&T Corp., Bell Communications Research  
16 ("Bellcore") and Ameritech Michigan (known at the time as Michigan Bell  
17 Telephone Company).

18

19 I held a number of positions at Ameritech Michigan. My assignments included  
20 work in engineering, costing, pricing and support services. My work in the  
21 Engineering Department included responsibility for engineering and installing

1 interoffice trunking facilities deployed between central office switches. After  
2 these assignments, I was assigned to Bellcore, where I was responsible for  
3 interexchange carrier and local exchange carrier relations. I then returned to  
4 Ameritech Michigan, where I began a series of assignments in interexchange  
5 carrier marketing, costing and government affairs. In 1995, I joined the AT&T  
6 Corp. Government Affairs organization.

7

8 I have appeared or filed testimony in cases before a number of regulatory  
9 commissions, including the Illinois Commerce Commission (“Commission”), or  
10 ICC. Exhibit JFH-01 provides a listing of that testimony.

11

12 **PURPOSE OF TESTIMONY AND SUMMARY OF CONCLUSIONS**

13 **Q. PLEASE STATE THE PURPOSE OF YOUR TESTIMONY.**

14 A. The purpose of my testimony is to illustrate that Ameritech Illinois has not shown  
15 in “a concrete and specific legal” manner<sup>1</sup> that it has met all of its obligations to  
16 furnish “checklist” items (i.e., interconnection, unbundled network elements,  
17 collocation services, etc.) at prices and other terms that would satisfy the  
18 requirements of § 271 of the Telecommunications Act of 1996 (the “Act”). On  
19 the contrary, I will identify where the necessary cost-based pricing required by

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<sup>1</sup> Memorandum Opinion and Order, *In the Matter of Application of Verizon New York Inc., Verizon Long Distance, Verizon Enterprise Solutions, Verizon Global Network Inc., and Verizon Select Services Inc., for Authorization to Provide In-Region, InterLATA Services in Connecticut*, CC Docket No. 01-100, FCC 01-208, ¶ 39, App. D, ¶ 5 (rel. July 20, 2001) (“Connecticut 271 Order”).

1        §252(d) of the Act is not uniformly available for all the functionalities Ameritech  
2        Illinois is required to offer under the Act.<sup>2</sup> I will also respond to the Affidavits  
3        and testimony of Barbara A Smith and Scott J. Alexander, which purport to  
4        demonstrate that Ameritech Illinois' pricing is in concert with the requirements of  
5        the Act.

6  
7        I will also explain how Ameritech Illinois' incomplete and otherwise inadequate  
8        pricing compliance leads to CLEC uncertainty and how this uncertainty hampers  
9        competitive activity. This uncertainty results from three principal sources: (1)  
10       network functions for which no TELRIC-based prices have been set, (2) functions  
11       for which only *interim* prices have been set, and (3) an apparent predisposition by  
12       Ameritech Illinois and its parent SBC to radically increase UNE prices at every  
13       opportunity.

14  
15    **PRICING AND THE § 271 CHECKLIST**

16    **Q.    IS THE AVAILABILITY OF PRICING FOR AMERITECH ILLINOIS'**  
17       **INTERCONNECTION, UNBUNDLED NETWORK ELEMENTS AND**  
18       **OTHER SERVICES A REQUIREMENT OF THE § 271 CHECKLIST?**

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<sup>2</sup> In this testimony, I will avoid restating positions taken by AT&T and other Competitive Local Exchange Carriers ("CLECs") in regulatory proceedings where the outcome was not to our liking. I will limit my discussion to areas where there is a certainty or substantial likelihood that Ameritech is not in compliance with the requirements of the Act.

1 A. Yes, it is a principal component of the checklist. For example, the FCC noted in  
2 its Connecticut 271 Order that checklist item 2 of § 271 requires that a BOC must  
3 provide “[n]ondiscriminatory access to network elements in accordance with the  
4 requirements of sections 251(c)(3) and 252(d)(1)” of the Act.<sup>3</sup> Section 251(c)(3)  
5 requires incumbent LECs to provide “nondiscriminatory access to network  
6 elements on an unbundled basis at any technically feasible point on rates, terms,  
7 and conditions that are just, reasonable, and nondiscriminatory.”<sup>4</sup> Section  
8 252(d)(1) requires that a state commission’s determination of the just and  
9 reasonable rates for network elements shall be based on the cost of providing the  
10 network elements, shall be nondiscriminatory, and may include a reasonable  
11 profit.<sup>5</sup> Pursuant to this statutory mandate, the FCC has determined that prices for  
12 unbundled network elements (UNEs) must be based on the total element long run  
13 incremental cost (TELRIC) of providing those elements.<sup>6</sup> The FCC has left it to  
14 state commissions like the Illinois Commerce Commission to determine whether  
15 the incumbent LEC’s prices comply with this standard. Indeed, the FCC has held

<sup>3</sup> Connecticut 271 Order, ¶ 51 (referring to 47 U.S.C. § 271(c)(2)(B)(ii)).

<sup>4</sup> *Id.* § 251(c)(3).

<sup>5</sup> 47 U.S.C. § 252(d)(1).

<sup>6</sup> First Report and Order, Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, CC Docket No. 96-98, 11 FCC Rcd 15499, 15590, ¶¶ 674-679 (Aug. 8, 1996); 47 C.F.R. §§ 51.501 *et seq.* See also *Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket No. 98-147, and *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, Third Report and Order and Fourth Report and Order, 14 FCC Rcd 20912, 20974, ¶ 135 (*Line Sharing Order*) (concluding that states should set the prices for line sharing as a new network element in the same manner as the state sets prices for other UNEs).

1           that it will not conduct a *de novo* review of a state commission's pricing  
2           determinations if the proceedings to establish these prices meet certain standards.

3

4    **STAFF'S ISSUES LIST**

5    **Q.    DOES STAFF'S ISSUES LIST FOR THIS PROCEEDING INCLUDE**  
6           **AMERITECH'S COMPLIANCE WITH THE PRICING STANDARDS OF**  
7           **THE ACT?**

8    A.    Yes. Appropriately, Staff includes three issues that provide the conceptual  
9           framework for this testimony. First, Staff asks:

10                 Rate Transparency: Can the Commission and competitors  
11                 “cogently determine how and when charges apply” for  
12                 collocation, UNEs, and resale offerings?

13           Staff then proceeds to ask two additional related questions:

14                 Rate Levels: Are Ameritech's non-recurring rates TELRIC  
15                 compliant?, and

16                 Rate Levels: Are Ameritech's recurring rates TELRIC  
17                 compliant?<sup>7</sup>

18           I will demonstrate in this testimony that there are currently several instances in  
19           Illinois where prices either do not yet exist, are interim in nature or are unclear as  
20           to their application. Until this situation is fully rectified, Ameritech cannot be

1 deemed to be in compliance with its checklist requirements pertaining to pricing  
2 of unbundled network elements and interconnection.

3 Additionally, Ameritech appeals virtually every order of the Commission on UNE  
4 pricing matters. Ameritech has also, in this very docket, expressed its view that it  
5 is not currently recovering its costs for UNEs.<sup>8</sup> Presumably Ameritech intends to  
6 “fix” this “problem.” This situation means that Commission reliance on any  
7 expectation of future Ameritech compliance or replacement of interim rates with  
8 reasonable permanent rates would be naïve and misplaced.

9  
10 **AMERITECH ILLINOIS’ PRICING ACTIVITIES**

11 **Q. HAS AMERITECH ILLINOIS WAITED FOR THE ILLINOIS**  
12 **COMMISSION TO COMPLETE ITS REVIEW OF AMERITECH**  
13 **ILLINOIS’ PRICES BEFORE SUGGESTING IT IS § 271 COMPLIANT?**

14 A. No. Ameritech Illinois itself presents information indicating that its draft  
15 application is premature because pricing is not available for certain UNEs and  
16 certain services. This is because Ameritech Illinois has not allowed the  
17 Commission to complete its work in reviewing Ameritech Illinois’ TELRIC  
18 studies. This makes the review of Ameritech Illinois’ “draft” application an  
19 exercise in preliminaries that is of very little true worth.

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<sup>7</sup> Staff Issues List, Checklist Item 2: Rates.

<sup>8</sup> See, e.g., Affidavit of Barbara A. Smith, ¶41 (November 21, 2001) where Ms. Smith asserts that ICC ordered implementation of various “CLEC suggested rates” has resulted in a condition where “these rates are lower than Ameritech Illinois’ costs.”

1   **Q.    WHY IS IT IMPORTANT THAT AMERITECH ILLINOIS SHOW THAT**  
2           **IT HAS APPROVED PRICING AVAILABLE FOR THE SERVICES IT**  
3           **OFFERS UNDER THE CHECKLIST?**

4   A.    Because until products and pricing have been defined in a specific, concrete and  
5           final manner and shown to be compliant with the relevant legal standards,  
6           competitive carriers using those products will not have the necessary certainty to  
7           conduct business. Any businessperson deciding whether or not to undertake an  
8           activity considers potential revenues, costs and profits. Additionally, the potential  
9           for unforeseen circumstances, changes in conditions, etc., also enter into the  
10          decision. Investor-supplied capital is attracted to business opportunities yielding  
11          the highest and most predictable returns. In the case of deciding whether or not to  
12          enter the local service business, CLECs must know the cost of the unbundled  
13          elements they purchase from Ameritech and the terms and conditions that apply to  
14          their use. As I will discuss later in this testimony, Ameritech prices for critical  
15          CLEC-required functionalities are not yet available. Other critical prices are only  
16          interim in nature. Finally, the price of virtually every UNE is under attack, as  
17          Ameritech continually engages in modifications to its cost study methods and  
18          inputs clearly designed to increase the costs that new entrants must pay.<sup>9</sup>

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<sup>9</sup> As previously cited, Ameritech witness Barbara A. Smith laments that “The ICC, however, in response to strong advocacy from the CLECs, disagreed and ordered Ameritech Illinois to implement various CLEC suggested rates. These rates are lower than Ameritech Illinois’ costs. Nevertheless, unless and until the ICC or reviewing court rules otherwise, Ameritech Illinois will make these rates available to all CLECs.” Affidavit of Barbara A. Smith, ¶41 (January 28, 2002). As I will explain more fully below, it is apparent that Ameritech Illinois and its parent SBC believe that their UNE prices are “lower than Ameritech Illinois’ costs,” and will work tirelessly to change that situation.



1 Furthermore, the price setting process for unbundled network elements results  
2 from a unique and complex interaction of several factors. These factors include  
3 product definition, the development of associated terms and conditions and costs.  
4 As a simple example, the price for subloops is a function of the capabilities  
5 included, the purposes for which the capability can be used, and the conditions  
6 under which the purchaser can use the offering. Only then can the issue of cost  
7 and price determination begin.

8

9 **Q. ARE PRICES AT LEAST REASONABLY CERTAIN TO CLECS AFTER**  
10 **THEY HAVE BEEN FILED WITH THE ICC BY AMERITECH?**

11 A. No. Typically, a Commission order directs Ameritech to make certain  
12 modifications to its cost studies. Then the studies must be reviewed by the  
13 Commission and other interested parties to assure compliance with the order. The  
14 November 21, 2001 affidavit and January 28, 2002 testimony of Barbara A. Smith  
15 are replete with references to ICC required modifications to Ameritech's cost  
16 studies. This compliance process can literally take years to complete. For  
17 example, the Commission's original UNE pricing case, Docket No. 96-0486/0569  
18 (Consol.) ("TELRIC case"), began on September 25, 1996. On June 3, 1998 the  
19 Commission entered an Order opening Docket No. 98-0396 to examine  
20 Ameritech Illinois' compliance with the TELRIC Order issued February 17, 1998  
21 in the TELRIC case. An initial order was issued in this compliance docket on

1           October 16, 2001. The case remains open on rehearing to this day – an  
2           astounding five and a half years after the Illinois UNE pricing process began.

3

4   **Q.    DOES CERTAINTY OCCUR AFTER COMPLIANCE STUDIES ARE**  
5   **APPROVED?**

6   A.    No. The compliance problems simply move to the implementation tariff. This  
7           Commission has extensive experience trying to achieve Ameritech tariffs that  
8           faithfully respond to Commission directives and direction. Protracted battles over  
9           shared transport, unbundled network element Platform (“UNE-P”) terms and  
10          conditions and the application of nonrecurring charges are a few examples.  
11          Furthermore, and even more troubling, many tariff implementation issues may not  
12          even come to light until a CLEC starts placing orders and gains substantial  
13          commercial experience with the Ameritech functionality.

14

15   **Q.    DOES THE LACK OF FINALITY REGARDING UNE PRICING HAVE**  
16   **ANY OTHER CONSEQUENCES?**

17   A.    Yes. As I stated earlier, the price setting process for UNEs results from a unique  
18           and complex interaction of product definition, the development of associated  
19           terms and conditions and costs. Other AT&T witnesses are presenting testimony  
20           regarding the state of Ameritech’s operations support systems and their associated  
21           performance measures. In the instances where essential UNE functionality has

1 not yet been costed and priced, there has not yet been a comprehensive product  
2 definition and establishment of associated terms and conditions. In this situation,  
3 there is no product to order, no ordering process and certainly no establishment of  
4 relevant performance measures. For example, how can the performance of  
5 Ameritech's operations support systems be tested for line splitting, line sharing or  
6 subloops if such offerings have not even been fully defined? In short,  
7 Ameritech's representation that it has fully complied with its checklist obligations  
8 is premature.

9

10 **OVERALL STATUS OF AMERITECH'S UNE PRICING**

11 **Q. YOU STATED EARLIER THAT YOU DISAGREE WITH AMERITECH**  
12 **ILLINOIS' ASSERTION THAT AMERITECH HAS FULLY COMPLIED**  
13 **WITH THE COST REQUIREMENTS OF § 252(d) OF THE ACT. ON**  
14 **WHAT BASIS DO YOU DISAGREE?**

15 A. Ameritech Illinois has profound compliance problems that it simply glosses over.  
16 These compliance problems fall into three broad categories. First, Ameritech has  
17 the obligation to provide certain offerings for which the costing and pricing  
18 process has not yet been completed. Second, another collection of items have  
19 been assigned *interim* rates that cannot be deemed to be cost based until a  
20 comprehensive review of costs is completed. Third, and finally, Ameritech has  
21 shown an undeniable predisposition to overstate costs and raise its rates for UNEs  
22 and other CLEC-required functionality at every opportunity. I will discuss these

briefly in turn. Because the first two categories (“prices not yet set at all” and “only interim prices set”) are interrelated, I will discuss them collectively. From a CLEC perspective, an interim price (particularly with a true-up mechanism) is a very small improvement over no price at all.

**OFFERINGS FOR WHICH THE COSTING AND PRICING PROCESS HAS NOT YET BEEN COMPLETED OR ONLY INTERIM PRICES ARE AVAILABLE**

**Q. PLEASE PROVIDE EXAMPLES OF OFFERINGS FOR WHICH THE COSTING AND PRICING PROCESS HAS NOT YET BEEN COMPLETED OR FOR WHICH ONLY INTERIM PRICES ARE AVAILABLE.**

A. Several items fall into this category, including UNE-P nonrecurring charges, charges for new enhanced extended links (“EELs”) and for converting special access circuits to EELs, cageless and shared cage collocation, end-to end Project Pronto loops, line splitting nonrecurring charges, subloops and dark fiber. Ameritech’s presentation itself is replete with examples of incomplete dockets and outcomes it has formally challenged. A few of the Ameritech-provided examples are listed below.

Docket	Subject	Status	Citation	Paragraph or Footnote
98-0396	NRCs for UNE-P	Rehearing	Smith 11/21/01 Affidavit Alexander	¶15

			11/21/01 Affidavit	Fn. 86
00-0700	ULS-ST	Not Yet Decided	Smith 11/21/01 Affidavit	¶18
00-0393	Project Pronto end-to-end offering	Rehearing	Smith 11/21/01 Affidavit	¶17
99-0615	Shared Cage, Cageless Colo.	Court Appeal	Smith 11/21/01 Affidavit	¶36

1

2 Lest the CLECs look forward to any semblance of closure, Ameritech reminds us  
3 that “Ameritech is seeking rehearing of the ICC’s October 16, 2001 Order in  
4 Docket No. 98-0396 and reserves the right to appeal that decision.”<sup>10</sup>

5

## 6 **UNE-P NONRECURRING CHARGES AND EELS**

7 **Q. PLEASE CONTINUE WITH A DISCUSSION OF NONRECURRING**  
8 **CHARGES FOR UNE-P AND EELS.**

9 A. One of the areas most important to CLEC local entry is the nonrecurring charges  
10 applicable to the UNE-P and EELs. This issue involves a somewhat complex  
11 interplay among three dockets: (1) Docket 01-0614 examining the requirements of  
12 Section 801 of the Illinois Public Utilities Act, (2) Docket 98-0396 which  
13 considers NRCs applicable to UNE-P and EELs (currently on rehearing), and (3)  
14 a yet to be opened docket to consider the nonrecurring charges applicable to

<sup>10</sup> Affidavit of Scott J. Alexander, fn. 87 (November 21, 2001).

1 various “engineering scenarios” associated with network element combinations,  
2 including providing UNE-P capability and EELs.  
3

4 The current state of affairs is uncertainty as to what nonrecurring charges apply to  
5 new UNE-P and EEL combinations. Although discussions have been ongoing  
6 among the parties as to interim rates, the outcome, obviously, will be only interim  
7 rates. While AT&T believes that the \$1.02 NRC promulgated in Docket 98-0396  
8 is fully appropriate as the exclusive rate for a new installation under the TELRIC  
9 paradigm, Ameritech wishes to also charge a line connection charge and some  
10 form of a port nonrecurring charge. Thus, the range of possible outcomes is wide.  
11 Settling the matter is expected to take considerable time. Regardless of the merits  
12 of the parties’ respective positions, one principal fact remains. There is not  
13 currently a cost-based permanent rate in place for new UNE-P and EEL  
14 installations or for converting special access circuits to EELs.<sup>11</sup>  
15

16 **CAGELESS AND SHARED CAGE COLLOCATION**

17 **Q. WHAT IS THE STATUS OF CAGELESS AND SHARED CAGE**  
18 **COLLOCATION PRICING IN ILLINOIS?**

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<sup>11</sup> In fact, in the cost studies Ameritech has proffered to date, it has not even attempted to identify the costs that are incurred when a CLEC converts a special access circuit to a loop/dedicated transport combination, or EEL. In fact, when Ameritech cost witness Mr. Richard Florence was cross examined in Docket No. 98-0396 (the TELRIC compliance docket) on the issue of what nonrecurring charges would apply when a CLEC converts a special access circuit to an EEL combination, Mr. Florence responded: “From what you describe, I don’t have any costs in here [Ameritech’s nonrecurring cost studies] for that.” ICC Docket No. 98-0396, Transcript dated October 24, 2000, pp. 601-602.

1 A. In Docket No. 99-0615 the Commission considered Ameritech's pricing proposals  
2 for cageless and shared cage collocation. The Commission agreed "with Staff and  
3 the CLECs that many of Ameritech's proposed costs are overstated, and that the  
4 cost support it provided is 'grossly insufficient'."<sup>12</sup> The Commission made the  
5 best of this unfortunate situation, noting that "while we realize they are not  
6 perfect, we will adopt Staff's recommended rates." The Commission anticipated  
7 the initiation of a "docket established to more fully examine the cost studies  
8 relating to the pricing of services supporting collocation."<sup>13</sup>

9  
10 Because that docket has not yet taken place, Ameritech cannot represent that it  
11 has TELRIC-compliant rates available for its collocation services. From a CLEC  
12 perspective, Ameritech's rates are excessive, interim and subject to change. To  
13 make matters worse, in the words of Ameritech affiant Barbara A. Smith,  
14 Ameritech "appealed certain portions of the ICC's order to the Appellate Court of  
15 Illinois which has yet to rule on the merits of Ameritech's appeal. Regarding cost  
16 issues, Ameritech's appeal addressed whether the ICC erred in adopting the cost  
17 disallowances proposed by the ICC Staff."<sup>14</sup>

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<sup>12</sup> Order, Docket No. 99-0615, p. 23 (August 15, 2000).

<sup>13</sup> *Id.*, pp. 23, 24.

<sup>14</sup> Affidavit of Barbara A. Smith, ¶¶ 36-37 (November 21, 2001).

1 In fact, shortly before Ameritech submitted its direct testimony in this case, the  
2 Illinois Appellate Court (Third District) issued an order affirming the  
3 Commission's August 15, 2000 Order in Docket No. 99-0615. In its Order dated  
4 January 11, 2002, the Illinois Appellate Court affirmed the Commission's  
5 rejection of Ameritech's cost studies in Docket No. 99-0615, stating: "We have  
6 reviewed the testimony of Commission staff member Douglas Price and conclude  
7 that his testimony, which was accepted by the Commission, was adequate to  
8 support the conclusion that Ameritech's cost studies were insufficient."

9

10 **PROJECT PRONTO LOOPS**

11 **Q. PLEASE SUMMARIZE THE SITUATION REGARDING COST-BASED**  
12 **RATES FOR PROJECT PRONTO LOOPS.**

13 A. In Docket No. 00-0393, addressing implementation of the high frequency portion  
14 of the loop ("HFPL")/line sharing service, the Commission required Ameritech  
15 Illinois to offer an end-to-end HFPL UNE platform. This is essentially an  
16 offering provided over what Ameritech has named Project Pronto. The docket is  
17 in its second rehearing phase and a Proposed Order was issued on February 19,  
18 2002.

19

20 With respect to pricing, the Proposed Order reviewed the evidence and concluded  
21 that it is appropriate to adopt interim rates for the end-to-end HFPL UNE



1 platform. These rates were those developed by a Staff witness, with an  
2 adjustment for shared and common costs. Importantly, the Proposed Order agrees  
3 with Ameritech “that it has not had its full day in court on the issue of the cost  
4 based rates that shall apply to the UNE in question here...”<sup>15</sup>

5  
6 The important fact for purposes of the present proceeding is that, even if the  
7 Proposed Order were approved *in toto*, this functionality would not have a rate  
8 determined to be compliant with TELRIC requirements, nor would it have a  
9 permanent rate. The result is more uncertainty for CLECs.

10  
11 **LINE SPLITTING NONRECURRING CHARGES**

12 **Q. PLEASE PROVIDE THE STATUS OF NONRECURRING CHARGES**  
13 **FOR LINE SPLITTING.**

14 A. Prices for important line splitting CLEC requirements have not yet been evaluated  
15 in Illinois. Specifically, line splitting is a means by which CLECs provide high  
16 capacity xDSL capabilities to their customers. This capability can be offered: (1)  
17 over UNE-P configurations or (2) by using only unbundled loops in conjunction  
18 with CLEC switching. Particularly important to CLECs are the rate elements and  
19 associated rates that apply in various scenarios involving customers migrating  
20 from Ameritech retail service to CLEC UNE-P or unbundled loop-based service.

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<sup>15</sup> Proposed Order on Second Rehearing, Docket No. 00-0393, pp. 25-26 (February 19, 2002).

1 Some insight into Ameritech's views on the nonrecurring charges that should  
2 apply in such instances has been gleaned from Ameritech Michigan's Section 271  
3 compliance proceeding. There Ameritech provided information purporting to  
4 demonstrate that line splitting is a profoundly labor intensive process requiring  
5 extensive additional UNE-related physical activity.<sup>16</sup> Over the last couple of  
6 months the CLECs and Ameritech have been participating in a collaborative  
7 proceeding to address these issues. Ameritech's latest positions on the  
8 nonrecurring charges that apply in various line sharing scenarios still reflect a  
9 grossly overstated view of the work and cost associated with offering line  
10 splitting.

11

12 The significance of this matter to the present proceeding is that Ameritech Illinois  
13 has not established cost-based rates for various line splitting scenarios. Based on  
14 Ameritech's positions in other states, such charges are certain to be overstated and  
15 in no way in conformance with TELRIC principles.

16

17 **SUBLOOPS AND DARK FIBER**

18 **Q. WHAT IS THE STATUS OF PRICING FOR SUBLOOPS AND DARK**  
19 **FIBER IN ILLINOIS?**

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<sup>16</sup> Supplemental Reply Affidavit of Mark J. Welsh and Supplemental Reply Affidavit of Michael D. Silver, MPSC Case No. U-12320 (August 23, 2001).

1 A. The Commission has not yet set cost-based rates for Ameritech's dark fiber and  
2 subloop offerings. Ameritech itself acknowledges that "the ICC has not opened a  
3 docket to investigate the rates in these [dark fiber and subloop unbundling]  
4 tariffs."<sup>17</sup> Then, advocating an extremely large leap of faith, Ameritech  
5 continues, "However, the cost studies for these tariffs used models and input  
6 assumptions which the Commission approved in the TELRIC proceeding,  
7 therefore, these rates are TELRIC-based."<sup>18</sup> Ameritech's witnesses list countless  
8 Commission required modifications to virtually every cost study submitted by  
9 Ameritech. To suggest that a raw, unreviewed Ameritech study constitutes  
10 "TELRIC-based rates" is reckless at best. Furthermore, a review of Ameritech's  
11 tariffs for subloop and dark fiber rates contains no approving order whatsoever –  
12 only a blank space.<sup>19</sup>

13  
14 **AMERITECH'S PREDISPOSITION TO OVERSTATE COSTS AND RAISE**  
15 **PRICES FOR CLEC-REQUIRED FUNCTIONALITY**

16 **Q. WHAT IS YOUR BASIS FOR SAYING THAT AMERITECH**  
17 **OVERSTATES COSTS AND RESULTANT PRICES FOR CLEC-**  
18 **REQUIRED FUNCTIONALITY?**

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<sup>17</sup> Direct Testimony of Barbara A. Smith, p. 5 (January 28, 2002).

<sup>18</sup> Id.

<sup>19</sup> ILL. C.C. NO. 20, PART 19, SECTION 16, 2<sup>nd</sup> Revised Sheet Nos. 10-16 and ILL. C.C. NO. 20, PART 19, SECTION 18, 2<sup>nd</sup> Revised Sheet Nos. 8-9. In the instance of sub-loop conditioning, the tariff cites to interim rates from the Texas Arbitration Award in Docket Nos. 20226 and 20272. Id.

1 A. Ameritech's predisposition to overstate costs (and increase costs from current  
2 levels) is evident from its own statements and actions. Earlier in this testimony, I  
3 cited Ameritech Illinois affiant Barbara A. Smith's view that any time CLEC  
4 suggested modifications are adopted by the Commission, the resultant "rates are  
5 lower than Ameritech Illinois' costs."<sup>20</sup> If I were employed by Ameritech Illinois  
6 and had this view, I would attempt to rectify the situation at the very first  
7 opportunity.

8  
9 Ameritech has also aggressively sought to increase its costs, starting a couple of  
10 years ago. This change in policy appears to correlate with the takeover of the firm  
11 by SBC.<sup>21</sup> For example, in June 2000, Ameritech Wisconsin - for the first time  
12 ever - advocated the use of *actual* fill factors for pricing of unbundled loops.<sup>22</sup>  
13 This modification massively increases indicated costs. It is important to note that  
14 for years prior to this, Ameritech advocated target or objective fill factors that  
15 result in more realistic loop costs. Through countless arbitrations and UNE  
16 permanent pricing dockets, Ameritech had never before been this aggressive.

17  
18 This Wisconsin initiative appears to have been only a precursor of things to come.

19 The latest assault came in Indiana. On February 8, 2002 Ameritech Indiana

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<sup>20</sup> Affidavit of Barbara A. Smith, ¶41 (November 21, 2001).

<sup>21</sup> It is ironic indeed that a corporate merger widely touted by its proponents as a major generator of efficiency and cost-reduction would bring with it a group of cost study "radicals" bent on substantially boosting CLEC costs at every turn.

<sup>22</sup> Direct Testimony of William C. Palmer, PSCW Docket No. 6720-TI-161, pp. 11-12 (June 15, 2000).

1 submitted unbundled loop cost estimates that were nearly double current levels.<sup>23</sup>

2 This doubling occurred in large part through the modification of fill factors from  
3 efficient target or objective levels to *actual* levels.<sup>24</sup> Importantly, this Indiana  
4 docket was initiated to address loop conditioning, line sharing and other related  
5 items. Unbundled loops, *per se*, were not even at issue in the proceeding.

6 Fortunately, the Indiana Commission agreed and struck Ameritech Indiana's  
7 gratuitous filing of increased unbundled loop costs.<sup>25</sup>

8

9 **Q. DO YOU HAVE AN EXAMPLE FROM ILLINOIS?**

10 A. Yes. As I described earlier, the preponderance of Ameritech Illinois' UNE  
11 pricing activity, spanning several years, occurred prior to the SBC merger.  
12 However, as part of the merger proceeding, Ameritech Illinois was required to  
13 prepare updated cost studies for all of its retail and wholesale products. Although  
14 the purpose of preparing these studies was to capture merger related savings, I am  
15 troubled by Ameritech Illinois' eagerness to have these studies acted upon by the  
16 Commission in some fashion.

17  
18 For example, in the ongoing unbundled local switching/shared transport case,

19 Docket No. 00-0700, Ameritech put it this way:

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<sup>23</sup> Direct Testimony of Jamie Butcher, IURC Cause No. 40611-S1 (Phase 2), pp. 6-8 (February 8, 2002).

<sup>24</sup> Direct Testimony of James R. Smallwood, IURC Cause No. 40611-S1 (Phase 2), pp. 14-18 (February 8, 2002).

<sup>25</sup> Entry, IURC Cause No. 40611-S1 (March 7, 2002).

1           It is my understanding that the Staff of the Illinois  
2           Commission, as a courtesy, was provided copies of all of  
3           the updated cost studies filed by Ameritech Illinois at the  
4           time of their filing with the Commission. That was over a  
5           year ago for UNE-related product offerings! These are  
6           very costly and burdensome requirements for Ameritech  
7           Illinois, and it should not be forced to incur costs of this  
8           magnitude only to have the work product gather dust at the  
9           Commission Staff offices.<sup>26</sup>  
10

11           Additionally, Ameritech has strongly objected to a CLEC UNE rate cap proposal  
12           advanced by the CLECs in the merger savings phase of Ameritech's alternative  
13           regulation docket. In defending this position, Ameritech Illinois intimates that  
14           prices are going up, not staying constant (and certainly not going down), with the  
15           following ominous observation:

16           Ameritech Illinois' UNE rates were based on 1996 costs  
17           and were developed before Ameritech Illinois had any  
18           meaningful experience complying with TA96. In addition,  
19           the cost models and input assumptions which were used  
20           and/or approved in the TELRIC proceeding are many years  
21           out-of-date and need to be revisited. It goes without saying  
22           that any revised rates would be the subject of extensive  
23           proceedings before the Commission and rates would only  
24           increase if the Commission were satisfied that they more  
25           accurately reflected the Company's costs.<sup>27</sup>  
26

27           Based on the post-merger cost studies offered by Ameritech in other states, and  
28           the discussion of rate increases provided by Ameritech in the alternative  
29           regulation docket and quoted above, I expect that the results of these Illinois post-  
30           merger studies are far from beneficial to CLECs. I believe that to be corroborated

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<sup>26</sup> Surrebuttal Testimony of William C. Palmer, Docket No. 00-0700, p. 66 (June 5, 2001).

<sup>27</sup> Rebuttal Testimony of Rhonda J. Johnson, Docket Nos. 98-0252/98-0335/00-0764, p. 21 (March 5, 2002).

1 by Ameritech's enthusiasm for Commission consideration of the studies and

2 Ameritech's apparent frustration that they are "gathering dust."

3

4 **Q. WHAT DOES THIS HAVE TO DO WITH AMERITECH'S SECTION 271**  
5 **APPLICATION?**

6 A. Ameritech's radical new cost approaches create uncertainty and risk for CLECs.

7 Each reconsideration of UNE costs presents a threat to the economic framework

8 in which CLECs do business. CLECs need to expend resources participating in

9 proceedings that they may be only marginally interested in because failure to

10 participate could result in unanticipated cost increases. While Ameritech may

11 experience ennui from its endless regulatory proceedings, some CLECs, on the

12 other hand, may not even survive them.

13

14 This situation, when combined with the vast array of interim and yet-to-be-

15 determined costs for CLEC-required functionalities, inexorably leads to the

16 conclusion that Ameritech Illinois is not yet in compliance with the requirements

17 of the Act.<sup>28</sup>

18

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<sup>28</sup> Ameritech Illinois witness Scott J. Alexander states in a footnote that "the FCC has previously approved § 271 applications for SWBT in Kansas, Oklahoma and Missouri, which contained certain interim rates." Direct Testimony of Scott J. Alexander, fn. 19 (January 28, 2002). There are, of course, certain interim rates in place in Illinois as well. Mr. Alexander would like the Commission to draw the logical inference that a § 271 approval would be appropriate here. Assuming *arguendo* that what Mr. Alexander says about these other states is true, the important distinction, however, is that in Illinois there are other required functions for which no prices are available. Additionally, Ameritech's radical new cost philosophy renders *interim* rates more unpredictable and dangerous to CLECs than would be the case in a steady-state environment.

1 **CONCLUSION**

2 **Q. PLEASE SUMMARIZE YOUR TESTIMONY.**

3 A. I have explained how Ameritech Illinois' prices for the interconnection  
4 capabilities it is required to offer to CLECs are either non-existent or interim in  
5 nature. I have also provided examples of how a post-merger radical element has  
6 overtaken Ameritech's cost organization resulting in increased uncertainty for  
7 CLECs. This state of affairs substantially impedes the ability of CLECs to make  
8 the decisions requisite to local market entry. For these reasons alone, Ameritech  
9 cannot be deemed to be in compliance with the requirements of § 271 of the Act.